

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

712A.15 Detention of child pending hearing; release of child; petition; limitation on custody of child pending hearing; detention in secure facility, cell, or other secure area designed to incarcerate adults; exception.

Sec. 15. (1) In the case of a child concerning whom a complaint has been made or a petition has been filed pursuant to this chapter, the court may order the child, pending the hearing, detained in a facility as the court shall designate. The court may release the child, pending the hearing, in the custody of a parent, guardian, or custodian, to be brought before the court at the time designated. As used in this subsection, "petition" includes all of the following:

- (a) Petition.
- (b) Supplemental petition.
- (c) Petition for revocation of probation.
- (d) Supplemental petition alleging a violation of a personal protection order.
- (2) Custody, pending hearing, is limited to the following children:
 - (a) Those whose home conditions make immediate removal necessary.
 - (b) Those who have a record of unexcused failures to appear at juvenile court proceedings.
 - (c) Those who have run away from home.

(d) Those who have failed to remain in a detention or nonsecure facility or placement in violation of a court order.

(e) Those whose offenses are so serious that release would endanger public safety.

(f) Those who have allegedly violated a personal protection order and for whom it appears there is a substantial likelihood of retaliation or continued violation.

(3) A child taken into custody pursuant to section 2(a)(2) to (4) of this chapter or subsection (2)(c) shall not be detained in any secure facility designed to physically restrict the movements and activities of alleged or adjudicated juvenile offenders unless the court finds that the child willfully violated a court order and the court finds, after a hearing and on the record, that there is not a less restrictive alternative more appropriate to the needs of the child. This subsection does not apply to a child who is under the jurisdiction of the court pursuant to section 2(a)(1) of this chapter or a child who is not less than 17 years of age and who is under the jurisdiction of the court pursuant to a supplemental petition under section 2(h) of this chapter.

(4) A child taken into custody pursuant to section 2(b) of this chapter or subsection (2)(a) shall not be detained in any secure facility designed to physically restrict the movements and activities of alleged or adjudicated juvenile offenders or in a cell or other secure area of any secure facility designed to incarcerate adults.

(5) A child taken into custody pursuant to section 2(a)(2) to (4) of this chapter or subsection (2)(c) shall not be detained in a cell or other secure area of any secure facility designed to incarcerate adults unless either of the following applies:

(a) A child is under the jurisdiction of the court pursuant to section 2(a)(1) of this chapter for an offense which, if committed by an adult, would be a felony.

(b) A child is not less than 17 years of age and is under the jurisdiction of the court pursuant to a supplemental petition under section 2(h) of this chapter.

History: Add. 1944, 1st Ex. Sess., Act 54, Imd. Eff. Mar. 6, 1944;—CL 1948, 712A.15;—Am. 1972, Act 175, Imd. Eff. June 16, 1972;—Am. 1987, Act 72, Eff. Sept. 1, 1987;—Am. 1998, Act 474, Eff. Mar. 1, 1999.

Compiler's note: Section 2 of Act 72 of 1987 provides: "If this amendatory act requires any increase in the level of any activity or service currently required by this act or requires a new activity or service by a local unit of government, the state shall reimburse the local unit of government for any new or increased costs."

Former law: See section 18 of Ch. XII of Act 288 of 1939; section 5 of Act 6 of 1907, Ex. Sess.; Act 310 of 1909; Act 164 of 1911; Act 262 of 1911; Act 363 of 1913; Act 308 of 1915; CL 1915, § 2015; Act 24 of 1921, 1st Ex. Sess.; Act 105 of 1923; Act 127 of 1927; and CL 1929, § 12838.

Popular name: Probate Code

Popular name: Juvenile Code